

REMARKS

The Office Action of February 20, 2008 has been reviewed and the Examiner's comments carefully considered. Claims 1 and 8 have been amended and claims 2, 7 and 12 have been cancelled. Accordingly, claims 1, 3-6 and 8-11 are currently pending in this application, and claim 1 is in independent form. Support for the amendments made herein can be found in Figs. 1, 2, 4, 5, 11 and 12; page 3, line 23 to page 5, line 7 of the specification; and in the original claims.

Applicants hereby request that the Examiner acknowledge in the next Official Communication the claim of priority under 35 U.S.C. §119(a-d) to Australian Patent Application No. 2002950725, which was filed on August 12, 2002. A certified copy of the priority document was submitted in the current application on February 11, 2005.

Applicants also request consideration the Information Disclosure Statement (IDS) filed on February 27, 2006 and the references identified therein, and return of a signed and initialed copy of the Form PTO/SB/08a that accompanied the IDS.

Claims 1-7 and 12 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,699,933 to Ho et al. (hereinafter "Ho") in view of U.S. Patent No. 5,713,484 to Setty (hereinafter "Setty"). Claims 8-11 stand rejected under 35 U.S.C. §103(a) as being obvious over Ho in view of Setty, and in further view of U.S. Patent Application Publication No. 2003/0233986 to Pappas et al. (hereinafter "Pappas"). Reconsideration and withdrawal of these rejections are respectfully requested.

The present invention, as defined by independent claim 1, as amended, is directed to a drinking apparatus that includes a container having a lid and defining an internal cavity for holding a body of liquid, a straw associated with the lid and having a bore, and a valve element that operates in conjunction with the bore of the straw and is operable between an open condition and a closed condition. The valve element is biased to the closed condition and moves to the open condition responsive to liquid being drawing through the straw. The apparatus completely encapsulates the internal cavity to thereby prevent substances from being introduced to the cavity. Removal of the lid from the container results in damage to either the lid or the container thus indicating that the apparatus has been tampered with.

Ho teaches a "camel back" system that includes a water container (1) provided with a filler neck (2) having a removable closure (3) and a mouthpiece (5) connected to the container (1) via a tube (4). The mouthpiece (5) contains a valve therein. The valve

comprises a ball (5A) biased to seal the mouthpiece (5) by a spring (5B). When the mouthpiece (5) is bitten down upon the ball (5A) is forced back, thus allowing water to pass through the mouthpiece (5) to the user. When the pressure on the mouthpiece (5) is released, the spring (5B) returns the ball (5A) to its sealing position. Please note Figs. 1A and 1B and column 1, lines 14-24 of Ho.

Setty teaches a plastic container (10) having a removable lid (12). The lid (12) comprises annular projections (13, 14) that cooperate with corresponding annular projections (18, 19) for sealing and locking the lid (12) in place on the container (10) after a flowable product has been disposed within the container (10). Packaging and sealing of the lid (12) onto the container (10) is completed by heat forming the locking projection of the container (19) over and around the upper end of the locking projection of the lid (14). The lid (12) is removable through actuation of a tab (25) disposed on the lid (12), which is gripped and pulled by a user to partially disengage the locking projection of the container (19) and the locking projection of the lid (14). Please note Figs. 1-9 and column 2, line 60 to column 4, line 14 of Setty.

Pappas teaches a liquid container having a ball closure (506), wherein the ball closure (506) may be provided with a fluorescent colorant to increase the visual novelty of the device. Please note paragraph [0075] of Pappas.

Independent claim 1, as amended, recites, *inter alia*, specific claim language as to "a straw associated with the lid and having a bore; and a valve element that operates in conjunction with the bore of the straw and is operable between an open condition and a closed condition; wherein the valve element is biased to the closed condition and moves to the open condition responsive to liquid being drawn through the straw; wherein the apparatus completely encapsulates the internal cavity to thereby prevent substances from being introduced to the cavity; and wherein removal of the lid from the container results in damage to either the lid or the container thus indicating that the apparatus has been tampered with." Applicants respectfully submit that Ho, Setty and Pappas, taken separately or in combination, do not teach or suggest the claimed subject matter of amended claim 1.

Ho teaches a mouthpiece (5) located at the end of a tube arrangement (4) that contains a spring-loaded ball valve (5A, 5B) that operates to prevent the egress of fluid from the container (1). A user bites down upon the mouthpiece (5) to dislodge the ball (5A) from a closed position in order to allow liquid to flow through and out of the mouthpiece. Please

note Figs. 1A and 1B and column 1, lines 14-24 of Ho. The mouthpiece arrangement taught by Ho is incapable of preventing substances from being introduced into the container or spiking of the contents of the container as someone attempting to tamper with the contents of the container (1) can simply put pressure on the ball (5A) with their fingers in order to open the mouthpiece (5) and introduce a contaminant into the container. Ho does not teach or suggest that the valve (5A, 5B) moves to an open condition responsive to liquid being drawn through the tube (4) so as to prevent contaminants from being introduced into the container (1) via the mouthpiece (5), as is currently claimed. This stands in contrast to the claimed invention, which utilizes a valve element associated with a straw that is moved to the open condition responsive to liquid being drawn through the straw so as to prevent the ingress of liquid or powder contaminants into a container. Further rejection on these grounds would therefore be improper.

Setty is cited for the teaching of a container and lid, where removal of the lid results in damage to the container thus providing an indication of tampering with the container. Applicants submit that Setty fails to teach or suggest a valve element operating in conjunction with the bore of a straw that moves to an open condition responsive to liquid being drawn through the straw. As such, the teachings of Setty are not sufficient to overcome the above-noted deficiencies in the teachings of Ho with respect to claim 1.

Pappas is cited for the teaching of fluorescent markings on a liquid dispensing mechanism. Applicants submit that Pappas fails to teach or suggest a valve element operating in conjunction with the bore of a straw that moves to an open condition responsive to liquid being drawn through the straw. As such, the teachings of Pappas are not sufficient to overcome the above-noted deficiencies in the teachings of Ho with respect to claim 1.

Applicants submit that claim 1 is allowable for at least the foregoing reasons, as the teachings of the prior art of record, including Setty and Pappas, are not sufficient to overcome the deficiencies in the teachings of Ho with respect to claim 1.

Claims 3-6 and 8-11 are dependent upon and add further limitations to independent claim 1 and are allowable for at least the same reasons as claim 1. Applicants respectfully request that the rejections of claims 3-6 and 8-11 be withdrawn.

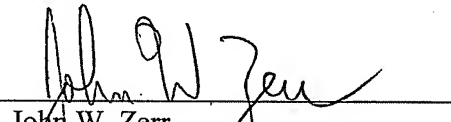
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Based on the foregoing amendments and remarks, reconsideration of the rejections and allowance of pending claims 1, 3-6 and 8-11 are respectfully requested.

Respectfully submitted,

THE WEBB LAW FIRM

By

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